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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

RESHMA ABELL,

Plaintiff,

v.

PACIRA PHARMACEUTICALS, INC.,  
DAVE STACK, individually and in his  
capacity as Chief Executive Officer of  
PACIRA PHARMACEUTICALS, INC.,  
and RICH KAHR, PETER MURPHY,  
DENNIS McLOUGHLIN, PAUL  
CIAVOLELLA, GLENN REISER, JOYCE  
DAVIS AND MATT LEHMANN, in their  
capacities as employees of PACIRA  
PHARMACEUTICALS, INC.,

Defendants.

Civil Action No.:

2:18-cv-16509 (MCA) (AME)

**DECLARATION OF JAMES J. PANZINI IN  
SUPPORT OF DEFENDANTS' REPLY BRIEF**

**James J. Panzini**, of full age, declares as follows:

1. I am an attorney at law in the State of New Jersey and a principal with the law firm of Jackson Lewis P.C. I am one of the attorneys charged with the responsibility of defending this matter on behalf of Defendants Pacira Pharmaceuticals, Inc. ("Pacira" or "the Company"), Richard Kahr, Peter Murphy, and Glenn Reiser (collectively as "Defendants"), and I am fully familiar with the facts set forth herein.

2. I make this Declaration in further support of Defendants' motion for summary judgment dismissing the Complaint of Plaintiff Reshma Abell ("Plaintiff"), in its entirety, with prejudice, as a matter of law and based on the undisputed material facts in the record. In particular, I make this Declaration to place before the Court certain materials necessary for the resolution of Defendant's summary judgment motion as part of Defendants' reply brief.

3. A true and correct copy of additional excerpts of Plaintiff Reshma Abell's deposition transcript cited in Defendants' Reply Statement of Facts ("Defendants' Reply Statement of Facts") which is being filed contemporaneously herewith, is attached hereto as Exhibit 22.

4. A true and correct copy of additional excerpts of Richard Kahr's deposition transcript cited in Defendants' Reply Statement of Facts is attached hereto as Exhibit 23.

5. A true and correct copy of additional excerpts of Seth Whaley's deposition transcript cited in Defendants' Reply Statement of Facts is attached hereto as Exhibit 24.

I declare that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

/s/ James J. Panzini

James J. Panzini

Date: August 9, 2021

4845-9052-7221, v. 1

# **EXHIBIT 22**

<p style="text-align: right;">Page 234</p> <p>1 the middle so you can grab it from front side or the  2 back side. There were people passing by, yes, plenty  3 of people.  4 Q. Did Mike hold it up with the screen  5 facing away from him so Roxanne could see it?  6 A. Yes.  7 Q. And other people may have seen it?  8 A. Yes, there's people behind us and people  9 behind Roxanne as well.  10 Q. But no one else said anything to you --  11 A. No, it was quick. It was less than  12 probably five seconds.  13 Q. Had you ever shown any Kamasutra related  14 website drawings to anyone else in Pacira?  15 A. No.  16 Q. And you indicated that you didn't find  17 it offensive, did you say it's part of your religion?  18 A. Yes, it's part of Hinduism.  19 Q. And you have to pardon my ignorance,  20 what exactly, how is that?  21 A. It's part of like old scriptures text  22 where it comes from. It's part of written texts  23 about sexual positions and how it could be beneficial  24 to your partner and what emotional way, what physical  25 way and to reach the higher intelligence and/or</p>	<p style="text-align: right;">Page 236</p> <p>1 workplace.  2 When you say you were terminated for  3 vague and conclusionary allegations, what are you  4 referring to?  5 A. Well, vague because one, they didn't  6 know anything about this, right? And I'm not the one  7 who showed it to Roxanne or anybody else. Mike never  8 got reprimanded for it. I am not the one who even  9 put it in front of anybody's face. I was honest from  10 the beginning when Rich Kahr asked me did it happen,  11 I told him all the truth. I fear nothing and I fear  12 no one. Nobody said anything about Mike, do you see  13 what I mean? No one said anything about Dave. So  14 it's just this had never happened before, there's no  15 pattern of it.  16 Q. Are you aware if anyone complained to HR  17 about Mike or Dave regarding this incident?  18 A. No. Again, they're men, yeah, they're  19 my friends but no. Plus they didn't have a target on  20 their back and weren't going for director of some  21 position that bothered Rob Rock. Had it been them  22 going for that Rob Rock would have been fine with  23 that.  24 Q. Are you saying that Rob Rock had  25 something to do with the reporting of the Kamasutra</p>
<p style="text-align: right;">Page 235</p> <p>1 higher way to be spiritual, how you can be spiritual  2 without having the physical form because it's not  3 a -- we believe in reincarnation. So your soul goes  4 to a different body each time. So it's not about the  5 body itself but to reach the higher self on a  6 spiritual level.  7 Q. So then you were contacted a second time  8 by Rich Kahr I believe?  9 A. No, not on the 13th. This was the next  10 morning, March 14, 8:00 a.m.  11 Q. And that's when you were terminated?  12 A. Yes.  13 Q. And that's the recording you provided to  14 counsel?  15 A. Yes.  16 Q. On the complaint go to page 13,  17 paragraph 65.  18 A. Okay.  19 Q. I'll just read the paragraph. Prior to  20 this phone call there were no warnings, discussions  21 of a performance plan, probation or other steps  22 taken. Abell was summarily terminated based on these  23 vague and conclusory allegations for alleged conduct  24 that, had a man engaged in the same or similar  25 behavior, would have gone unnoticed in Abell's</p>	<p style="text-align: right;">Page 237</p> <p>1 matter?  2 A. I don't know. I'm not saying that he  3 did, what I'm trying to say is that because this was  4 already put on my back when they investigated Rob  5 Rock the day they did, and again, I did not report  6 him someone else did, or the whole incident. But  7 then to open up this whole investigation on me as a  8 retaliation, do you see what I mean? They pick and  9 choose what they want to read into. So if there were  10 other complaints about me before that I'm unaware of,  11 then make me aware. Rich never did. Because I asked  12 him is there a pattern? Have you ever heard anything  13 about me like this before? He said no, it's an  14 isolated incident.  15 Q. Just in particular where it says  16 terminated by these vague allegations, what were  17 vague about the allegations?  18 A. A couple people saw when walking by --  19 I'm sorry, because when we had the statement he  20 wouldn't give me any straight answers. Vague as in a  21 couple people saw this when walking by. And they  22 took offense to it. Can you tell me how they were  23 offended? Visually? Okay, but why, I don't  24 understand why. Because it was pornographic? We  25 don't have a zero tolerance policy here. At Pfizer</p>

<p style="text-align: right;">Page 274</p> <p>1 Q. So are you aware that they're close 2 personal friends? 3 A. Yes. 4 Q. And how are you aware of that? 5 A. Because he told me that. 6 Q. He used those exact words? 7 A. Yeah, we're very close friends. 8 Q. Did he tell you how long he's known Mr. 9 Stack? 10 A. He did but I don't remember. He had 11 told me that at one point. 12 Q. Did he expound into whether they're 13 social friends, vacation together? 14 A. They're social friends that I knew. As 15 far as vacationing, that I don't know the intimate 16 details. 17 Q. So is it your position that Dr. 18 Kronenfeld is, based on his relationship with David 19 Stack, has done anything inappropriate or wrong in 20 his managing of Pacira? 21 A. Dr. Kronenfeld? 22 Q. Yes. 23 A. Did I see that he has, no, I feel that 24 because they're really close friends there are times 25 when Dave has not made proper decisions, that</p>	<p style="text-align: right;">Page 276</p> <p>1 board members ever took inappropriate action based on 2 the fact that they were friends with Mr. Stack? 3 A. Well, there were times -- this is again, 4 this was to be remained in the room but I'll just 5 give you just a little, not all of it. There were 6 times there were decisions that, you know, the CEO is 7 there and board is there to keep everything in check 8 so that we don't again, tank the company or do 9 certain things and no one once gave me a satisfactory 10 answers as far as compliance. I was always worried 11 like I'm going to have no job the next day. So my 12 whole concern was every time I addressed it it's like 13 fall in line, you're a woman, you're a woman, fall in 14 line. I asked for compliance issues, fall in line, 15 asked to go see Dr. Kronenfeld, no, fall in line. 16 It's like constantly getting slapped all the time for 17 asking legitimate questions, where is this grant 18 going, why aren't we reporting the white space, why 19 aren't we doing this or that? Do you see what I men? 20 No one gave me a satisfactory answer as to -- or even 21 investigate it, any of those issues that I brought 22 up. So there were way too many gray areas over those 23 four years, not one. So I mean, you asked earlier do 24 I know where it's listed or not, no, but I know the 25 difference between right and wrong. I also know the</p>
<p style="text-align: right;">Page 275</p> <p>1 executive team or stuff that, you know, they agreed 2 with or disagreed with and they let him continue to 3 build on and go on, you know, do the things that he 4 did because he had a temper. So a lot of times they 5 didn't want to piss him off, just like everyone kind 6 of walked on eggshells. I didn't have that concern, 7 I had no issues with Dave. I can go and say what I 8 want but I wasn't allowed to by my superiors. So 9 Mark and I would meet without anybody's knowledge 10 because we weren't allowed to meet because Pete, 11 Dennis, Glenn, they forbid had me from meeting with 12 him because they knew he was fond of me. And he also 13 spoke highly of me at their meeting or whatever the 14 conversation was. He never disclosed it because he's 15 a board member and he's not to disclose that. But we 16 were friends as well. So I never told my bosses 17 because again, being a woman and all these other 18 things that's how they see it. Any time I go see him 19 I have to bring them in with me. And that wasn't 20 always possible. I respect his position, his 21 knowledge, he's an intelligent, very intelligent man, 22 very respectful. 23 Q. Who are you referring to? 24 A. Dr. Kronenfeld. 25 Q. So is it your position that any of the</p>	<p style="text-align: right;">Page 277</p> <p>1 difference between black and white and gray and there 2 are a lot of grays here and no answers. 3 Q. And is it your position that you 4 couldn't get those answers because of the board of 5 directors and senior executives being friends of 6 David Stack? 7 A. That and also everybody is fearful of 8 Dave. It's not like a hidden fact, everybody is 9 terrified of Dave. I on the other hand, I think 10 similarly to how he thinks and I have no issues 11 addressing anything that he would like to discuss 12 with me. I have no problem because for me this is a 13 lot more personal than anybody else. For me, just 14 like Dave, Exparel was my baby, this was going to go 15 to places, this was going to fly to Mars. So for me 16 and Dave we looked at the world as a macro not as a 17 micro, that's why I was never afraid of him. I had 18 no problem addressing whatever discussing what we 19 did. And that's why I did as well as I did because I 20 want to take it to a different level. And if I'm 21 going to have that respect I'm going to have to speak 22 in their own languages, call people out on their 23 stuff. If you don't call people out you cannot just 24 be a CEO, CFO, COO and not call people's stuff out if 25 you're always afraid. And these people always afraid</p>

<p style="text-align: right;">Page 282</p> <p>1 questioned they would have received answers. But no  2 one asked those questions and the stock price went  3 from \$126 back down to 29 or in the 30s because of  4 the DOJ investigation. It destroyed our stock.  5 Q. And what makes you say if a man asked  6 those questions he would get answers?  7 A. Reason why is because not a single man  8 was ever told to keep it quiet. I said to Pete, I  9 would always question Pete or Dan, I was like, if I  10 wasn't a woman, if I wasn't a girl and if I wasn't a  11 female, would you have treated me the same way?  12 That's not the point. No, that is the point. If  13 Isaac asked that question, you'd take him out for  14 beers. I ask the question and you tell me to shut  15 it. And that's the language they use. So do you see  16 what I mean? You go out and smooth things over with  17 the boys because it's a boys club. I don't know what  18 they discuss or ask or not ask. Whenever they had  19 questions they were all afraid, they come to me.  20 That's when I send that -- because I complained for  21 two consecutive years to Pete Murphy as well as  22 Dennis about the comp plan, the discrepancies and all  23 these other things. They didn't do anything. Nobody  24 addressed it. I was close enough to Jim to say okay,  25 this is not coming from a bad place but look at how</p>	<p style="text-align: right;">Page 284</p> <p>1 opportunities to fix it. In the last 24 months. You  2 didn't do anything about it. And now I'm having  3 people who trust me in this organization, all the  4 sales reps and people that see me in the leadership  5 role, because if I'm going to give you one problem  6 I'm going to give you three solutions. And I did  7 that for Jim Scibetta and it was easy enough. For  8 any superior, it makes their job easier if you come  9 in with the complaints all the time, that's grand,  10 but what do you want from me? I will give you  11 solutions. And that's why Jim responded properly.  12 Q. So when did you go to Mr. Scibetta?  13 A. It was 2016, July, June 30th I think.  14 Q. And you complained about the  15 compensation?  16 A. Comp plan, how we're being treated  17 unfairly and I forget what the e-mail said but you  18 have that.  19 Q. Were you fearful of being terminated  20 when you made that complaint?  21 A. Absolutely.  22 Q. But were you terminated when you made  23 that complaint?  24 A. Nope, because I didn't let Dennis read  25 this e-mail, I had Pete read it and Isaac, Crystal</p>
<p style="text-align: right;">Page 283</p> <p>1 we're being cheated? He didn't even know about it.  2 But look, he fixed it immediately because he did the  3 right thing. Just like if Dave knew you do the right  4 thing. But they put all those road blocks in the  5 middle, middle management and fire people for  6 whatever causes or not causes and nobody wants to  7 take the blame or explain. Only women are being  8 terminated left and right but people like Alexi are  9 floating by.  10 Q. Paragraph 84: Abell reported these  11 irregularities, which she believed were securities  12 law and/or ethical violations, at various times  13 between at least May 2014 and her termination on  14 March 14, 2018, to the following individuals: Chief  15 Financial Officer and President James Scibetta,  16 Kronenfeld. What and when did you report to Mr.  17 Scibetta?  18 A. It was when I sent that e-mail and also  19 in our trips that we went on, I was like well, I'm  20 not seeing it. But he's the kind of person who would  21 address it, right? Not directly to me just like when  22 I complain about the comp plan, he addressed it. But  23 you shouldn't have to live in fear constantly and  24 Mike was like why would you do that, why did you go  25 over my head? I didn't, I offered you 18</p>	<p style="text-align: right;">Page 285</p> <p>1 Rowe (phonetic) read it. I said what do you think?  2 Well, it was nice knowing you. I said that's fine,  3 that's why I'm going to send this on June 30th at  4 least I can get my commission for the two quarters  5 and I'm prepared for that because enough is enough.  6 Q. How about Kronenfeld, when did you  7 complain to him?  8 A. It's not so much about complaining, I  9 was more like conversations we would have or whatever  10 over those four years that we had in the hallway or  11 here or there. He would ask me about the pulse, I  12 was like the moral is very low. So and so in this  13 area, I wouldn't give him names. I would just say  14 some reps in south they lost moral completely because  15 they did this to the comp plan or mistreated him this  16 way and now they're golfing or fishing or hanging out  17 with the kids or going to the pool. And he's like  18 oh, my God, that is bad. I'm like yeah, that is bad.  19 You need to do something, need to address this. So  20 it was like little things like that. It was not  21 specifically in details or the meetings were always  22 meant for us to have a meeting, I would run into him  23 in the hospital because he's in our account.  24 Q. Do you consider yourself a spokesperson  25 for the SAS's?</p>

# **EXHIBIT 23**



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1 A Correct.  
 2 Q You spoke with Roxanne Brady?  
 3 A Correct, and Gio.  
 4 Q And Gio. In addition to those  
 5 five individuals, did you speak with anybody  
 6 else?  
 7 A I do not believe so, no.  
 8 Q Were anybody else's names  
 9 offered in the course of your investigation as  
 10 potential witnesses?  
 11 A There were other names that were  
 12 thrown out as possibly standing around when some  
 13 of the interaction happened between the two but  
 14 nobody was 100 percent certain that anybody, you  
 15 know, witnessed everything, so it was a decision  
 16 about who the most likely people are that would  
 17 have something to contribute to the -- the issue.  
 18 Q And did you come to any findings  
 19 with respect to the incident that happened  
 20 surrounding the Top Golf event?  
 21 A Only that the story line and  
 22 positions that Reshma and Rob had were completely  
 23 opposite from one another and very little of what  
 24 they voiced to me could be corroborated by anyone  
 25 else. After talking to all those people that I

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1 talked to, very few things were confirmed outside  
 2 of the fact that Reshma wanted to go to the Top  
 3 Golf event, got into a taxi, went over with some  
 4 folks to it, interacted with people that were  
 5 there, nobody seemed to have ever been present  
 6 when Reshma and Rob had, you know, a conflict  
 7 with one another.  
 8 Q And was it your understanding  
 9 that there was words exchanged between Rob and  
 10 Reshma at the Top Golf event?  
 11 A Yes. Now, that was again  
 12 alleged. Certainly, you know, Reshma's view is  
 13 that Rob did not treat her appropriately there  
 14 and was inappropriate in how he addressed her.  
 15 Likewise as well as the hotel too, so I mean that  
 16 was very clear.  
 17 Rob's version was completely  
 18 different and no one could, like I said, backup,  
 19 you know, enough of what had been communicated to  
 20 me for me to draw conclusions outside of the fact  
 21 that they had conflict that was apparent to  
 22 anybody but nobody really knew what they were  
 23 saying and, you know, anything specific that  
 24 would backup what they had to say.  
 25 Q And was it your understanding

1 that Glen Riser was physically present at the Top  
 2 Golf event on the evening that the words were  
 3 exchanged?

4 A No, that wasn't -- if he was, I  
 5 don't recall. If he was, he wasn't present when  
 6 the two of them were having a discussion.

7 Q Did you ever come to learn the  
 8 names of all the individuals that were present at  
 9 the Top Golf event?

10 A Well, there was quite a few  
 11 people there so no, I mean I think, you know,  
 12 that was -- there were a number of people there  
 13 from Gio's region and Rob's region but, you know,  
 14 my interest was primarily just talking -- I  
 15 didn't want to talk to everybody in the sales  
 16 organization, I wanted to talk to people that  
 17 might have some incite around what transpired  
 18 between the two.

19 Q Did you understand the Top Golf  
 20 event to be a corporate event?

21 A No, I did not understand that to  
 22 be the case.

23 Q Was it a corporate sponsored  
 24 event?

25 A Well, I guess it depends on how

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1 you define a corporate sponsored event. It was  
 2 two Region Directors that chose to have a social  
 3 event because it was technically with the women's  
 4 event happening that night, it was a night off  
 5 for everybody. So they just planned a social  
 6 event for their two regions, they went over  
 7 there, it wasn't everybody in the sales  
 8 organization, all the other guys in the sales  
 9 organization didn't get invited to that, it was  
 10 only those two region guys that had most of their  
 11 teams there, that's my understanding, based on  
 12 talking to both Gio and to Rob.

13 Q Do you know if there were other  
 14 individuals aside from members of their regions  
 15 that were present?

16 A I don't know with 100 percent  
 17 certainty, no.

18 Q Was that a part of your inquiry?

19 A No, no. I mean my inquiry was  
 20 more around confirming and being able to get some  
 21 facts around what had alleged to have happened  
 22 between the two of them that was considered  
 23 inappropriate conduct down at the national sales  
 24 meeting, you know, knowing who was at Top Golf  
 25 wasn't necessarily my first priority. It was who



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1 disturbed by an incident that happened at the  
2 national sales meeting on a break and basically  
3 proceeded to articulate the fact that on a break  
4 Reshma pulled out her phone, opened up the Kama  
5 Sutra website and shared it with a number of  
6 people at the meeting.

7 Q And was this the first time you  
8 were aware of the allegation that Reshma shared  
9 material concerning Kama Sutra at the national  
10 sales meeting?

11 A That's correct.

12 Q You had not heard of that from  
13 any other source prior to hearing it from Steve  
14 Huddy?

15 A That's correct.

16 Q Other than Steve Huddy, did you  
17 hear it from any other individual?

18 A I did.

19 Q Who else?

20 A Roxanne Brady -- not Roxanne --  
21 what was Roxanne's last name? There was another  
22 Roxanne in our headquarter's office.

23 Q Are you referring to Roxanne  
24 Doherty?

25 A Roxanne Doherty, yes.

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1 Q Within the investigative notes  
2 there is certain indication that a phone call was  
3 conducted with an individual Roxanne Brady. Is  
4 that a --

5 A That's a typo. It's Roxanne  
6 Doherty.

7 Q So is there more than one  
8 Roxanne within the Pacira organization?

9 A Yeah, there is an admin in the  
10 headquarter's office.

11 Q So contained in the  
12 investigatory notes, any reference made to  
13 Roxanne Brady would have been likely a typo or --

14 A No, it was Roxanne Doherty.

15 Q Okay. But where it says on the  
16 investigative report, Roxanne Brady, that's  
17 incorrect in terms --

18 A That is incorrect, yes.

19 Q And what is it that Roxanne  
20 Doherty told you during the course of your  
21 conversation with her?

22 A Very similar to what Steve Huddy  
23 said, when I asked her the question at the end,  
24 whether there is anything beyond what we had  
25 talked about regarding the incident that happened

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1 between Rob and Reshma, she said yes, she wanted  
2 to make me aware that there was an incident with  
3 Reshma during a break where Reshma again had her  
4 phone open to a website called Kama Sutra, and  
5 that there were a number of sales reps around her  
6 and she told her when she walked over there that  
7 it was inappropriate for her to be doing that, to  
8 shut it down and to go back to the meeting.

9 Q Did Roxanne Doherty tell you  
10 that she was made to feel uncomfortable by this  
11 material?

12 A Yes, yes.

13 MR. PANZINI: You have to let  
14 him finish his question.

15 A Yes, yup.

16 Q Did she use those exact words,  
17 that she was made to feel uncomfortable?

18 A She felt it was inappropriate.

19 I can't remember whether -- if it made her feel  
20 uncomfortable, I would have to go back and look  
21 at my notes specifically.

22 Q Did Steve Huddy use the specific  
23 words that he was made to feel uncomfortable?

24 A Yes.

25 Q And that you recall?

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1 A Yes.

2 Q Other than the discussions of --  
3 with Steve Huddy and Roxanne Brady, were you  
4 caused to learn about this material that Reshma  
5 purportedly showed by anybody else?

6 A No, only from my followup  
7 conversation with Reshma.

8 Q Do you recall the sequence and  
9 timing in how long in time it was from when you  
10 first spoke with Rob and Reshma to when you spoke  
11 with Steve Huddy?

12 A Matter of a day or two. I mean  
13 a couple of the fact finding meetings may have  
14 carried over to early the following week, I can't  
15 recall timing without looking at the notes.

16 Q Do you recall what you learned  
17 from speaking with Isaac Smolko concerning the  
18 events that transpired at the Top Golf event?

19 A Do I recall what, I'm sorry?

20 Q What it is that you learned from  
21 the discussion with Isaac Smolko?

22 A Not much, Isaac didn't have any  
23 -- anything to share that was at all pertinent  
24 and could, you know, provide any bearing on  
25 whether there was or there wasn't a conflict

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1 between the two.

2 Q And with respect to the  
3 information offered to you by Steve Huddy  
4 concerning the Kama Sutra, that was offered to  
5 you unsolicited?

6 A Yes.

7 Q Following your being made aware  
8 of the -- of this information by Steve Huddy, did  
9 you perform any due diligence to research what  
10 the Kama Sutra, what the Kama Sutra is?

11 A No, only what I was told.

12 Q What were you told about the  
13 Kama Sutra?

14 A That it was supposedly a site  
15 with figures in -- in inappropriate sexual  
16 positions and what have you, but it was sexual in  
17 orientation and inappropriate.

18 Q Did you undertake any  
19 investigation to learn if there was any cultural  
20 or religious significance between behind the Kama  
21 Sutra?

22 A No.

23 Q In the course of any discussions  
24 with Reshma, did she raise with you the issue  
25 that the Kama Sutra was cultural and religious in

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1 nature?

2 A She did.

3 Q And after she raised that issue  
4 to you, did you then do any independent research  
5 to look into what the Kama Sutra meant in terms  
6 of that cultural relevance?

7 A No.

8 Q And do you understand the  
9 religious significance of the Kama Sutra?

10 MR. PANZINI: Objection to form.  
11 Go ahead if you know.

12 A You know, I don't know how to  
13 answer that question.

14 Q Well, what do you understand the  
15 Kama Sutra to be?

16 A An inappropriate site to be  
17 showing at a national sales meeting to other  
18 colleagues.

19 Q Did you ever view the materials  
20 that were purportedly shown at the national sales  
21 meeting?

22 A No.

23 Q Were you ever -- did you ever  
24 ask to see what was being shown?

25 A No.

1 Q Were you ever offered the  
2 opportunity to be shown, to see what was being  
3 shown at the meeting?

4 A No.

5 Q Had you been offered the  
6 opportunity to review these materials, would you  
7 have undertaken that?

8 A Probably not, no.

9 Q Why not?

10 A I felt there was no need for  
11 that to be the case.

12 Q How could you possibly deem  
13 whether or not something is appropriate or not  
14 having not look at the source of the material?

15 A Go ahead.

16 MR. PANZINI: You got to let him  
17 finish and then you got to let me. Don't  
18 anticipate the end of the question. I'll object  
19 to the form but go ahead and answer.

20 A So finish.

21 Q I'll ask again. How could you  
22 make a determination about whether or not the  
23 material was objectionable, offensive or  
24 inappropriate without actually viewing it  
25 yourself?

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1 A Because I am reacting to what  
2 people told me at the meeting. That they  
3 witnessed the site, it showed this, of people,  
4 figures in inappropriate positions, sexual  
5 positions and it made them very uncomfortable.

6 Q Specifically you are referring  
7 to Steve Huddy. Correct?

8 A And Roxanne.

9 Q Well, you told me earlier you  
10 don't recall whether or not it made Roxanne  
11 uncomfortable, you just thought that she  
12 mentioned it seemed inappropriate. So it was  
13 only Steve Huddy that told you he was  
14 uncomfortable by it. Is that correct?

15 A Well, again, I would have to  
16 refer to my notes, you are asking me to confirm  
17 stuff without actually seeing what I wrote. You  
18 got the benefit of looking what I wrote right  
19 now.

20 Q Well, sir, you told me at the  
21 beginning of the deposition that in preparation  
22 for the deposition that you reviewed these notes.  
23 Is that correct?

24 A Not word for word but yes.

25 Q You also told me that you

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1 reported directly to Rob Rock?

2 A No.

3 Q Why not?

4 A Because by the time I had talked  
5 to Rob and/or Steve Huddy and Roxanne and  
6 followed up with Reshma, she confirmed that it  
7 happened, it was irrelevant.

8 In my conversation with Reshma,  
9 you look at the notes, there was not a dispute  
10 about whether she did it or didn't do it, I  
11 didn't need to talk to other people. She had  
12 confirmed that to me. There was no -- there was  
13 no issue in dispute.

14 Q Did Reshma -- withdrawn.

15 Is it your testimony here today  
16 that Reshma admitted to you showing Steve Huddy  
17 Kama Sutra material on her cell phone?

18 A She admitted showing Kama Sutra  
19 to others at the meeting, she didn't get into who  
20 specifically she showed it to. I didn't talk to  
21 her about names and she didn't talk to me about  
22 names but when I confronted her on it, she did  
23 not hesitate in confirming that she did.

24 Q And when she confirmed that she  
25 showed this material, did she offer you context

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1 upon which this material was viewed on her phone?

2 A She did.

3 Q And what was the context that  
4 was offered?

5 A She basically said that her  
6 rational was that it was -- you know, she didn't  
7 have it open for very long, there wasn't very  
8 many people there, it was not a big deal, it  
9 wasn't a distraction and for that reason she  
10 didn't think, you know, it should be, you know, a  
11 serious issue.

12 Q Did she also explain to you the  
13 religious significance that the Kama Sutra plays?

14 A I don't think she explained that  
15 in that sense, no.

16 Q When was the issue of the Kama  
17 Sutra material first discussed with Reshma?

18 A After I had had my conversations  
19 with Steve and Roxanne.

20 Q How many calls -- withdrawn.

21 In the course of your  
22 investigation, did you conduct calls with Reshma  
23 Abell?

24 A I did.

25 Q How many calls did you conduct

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1 with Reshma able?

2 A I think there was three  
3 different calls, there was the initial one to get  
4 her side of what transpired with the conflict,  
5 there was the one to tell her that a decision had  
6 been reached around the conflict, that we were --  
7 based on us not being able to verify, you know,  
8 either way that there was a disciplinary issue  
9 that was -- that the company was going to put  
10 that case behind us and drop the case, and then  
11 the third one was to make her aware of the fact  
12 that the Kama Sutra issued had been surfaced to  
13 my attention and get her reaction to it and  
14 that's when she divulged that she acknowledged  
15 it, she didn't dispute it. She tried to  
16 rationalize it.

17 Q Did you raise the issue of the  
18 Kama Sutra material with Reshma during the first  
19 telephone conversation you had with her?

20 A No.

21 Q Why not?

22 A Because I wasn't aware of it at  
23 the time. You know, when I talked to her about  
24 the issue with her and Rob, no, that hadn't come  
25 up until after I talked to her and Rob and was

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1 doing the fact finding with others that it  
2 happened in the second conversation.

3 Q Can you mark that as Plaintiff's  
4 47, please.

5 (Whereupon, Exhibit 47, Email  
6 dated February 11, 2018 from Cecilia Ross is  
7 received and marked for Identification by the  
8 reporter.)

9 I'd like to show you what's been  
10 marked as Plaintiff's 47, these are documents,  
11 three pages Bate stamped Pacira126, 127 -- sorry,  
12 1266, 1267 and 1268. Do you recognize what's  
13 been marked here as Plaintiff's 47 today?

14 A Yeah, this was the first  
15 conversation I had with Reshma.

16 Q Who is Cecilia Ross?

17 A Who is Cecilia Ross? She is an  
18 admin in headquarters.

19 Q Can you explain to me why the  
20 message was sent from Cecilia Ross to you  
21 containing an attachment of these notes?

22 A I don't know.

23 Q Turning your attention to the  
24 second page of the exhibit Pacira1267, is this  
25 the investigatory notes that you prepared

# **EXHIBIT 24**

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1 A. You know, at some point they were in a --  
2 this was prior to my time at Pacira, but they were  
3 in a car together and -- or they were together and  
4 there was a few people -- it was Isaac, Reshma and  
5 a couple other people and she made some sort of  
6 remark about Isaac's wife and said, Well, she has  
7 this but your dick is mine.

8 Q. This was recounted to you by Isaac?

9 A. Yes.

10 Q. And this occurred prior to your employment  
11 with Pacira?

12 A. Yes.

13 Q. So this was --

14 A. I believe so, yeah.

15 Q. This was Steve -- this was Isaac Smolko's  
16 secondhand recounting of some event occurring  
17 between him and Reshma?

18 A. Correct.

19 Q. And what about when you related the  
20 information to Justin Sherrod, what, if anything,  
21 did he say?

22 A. I don't remember.

23 Q. And what about when you relayed the  
24 information to Rob Rock? What, if anything, did  
25 he say?

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1 A. He said something along the lines of,  
2 Well, maybe that should be something that you  
3 would tell HR.

4 Q. And Rob's commentary to that effect, did  
5 that precede your reaching out to Rich Kahr at HR?

6 A. It did.

7 Q. Did Rob encourage you to reach out to HR?

8 A. No. He just mentioned it at that time.

9 Q. And was that before or after there had  
10 been a -- the Top Golf event and what happened  
11 between Rob and Reshma?

12 A. It was after.

13 Q. With respect to the comments that Isaac  
14 Smolko made, was there some implication there that  
15 there was inappropriate sexual conduct between  
16 Isaac and Reshma in the past?

17 A. No, I didn't take it that way.

18 Q. So what if -- what did you take that  
19 commentary from Isaac to mean?

20 A. Just another example of Reshma being  
21 sexually inappropriate in the workplace.

22 Q. So you took it to be nothing more -- well,  
23 you took it to be words?

24 MR. PANZINI: Object to form.

25 You can answer.

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1 A. I mean, I took it as being pretty  
2 offensive. I mean, if it would have been me in  
3 that car, I would have been really offended by it,  
4 considering he's married and has kids.

5 Q. (By Mr. Stewart) And when you told Steve  
6 Huddy that you had been shown this content, did he  
7 make any statements to the effect that he had seen  
8 or he had been shown similar content by Reshma?

9 A. I don't recall. I don't remember.

10 Q. Did you ever have any conversations with  
11 Steve Huddy about Reshma and about what  
12 transpired?

13 A. I mean, he -- I told him that I had gone  
14 to HR and told them about what had happened.

15 Q. And what did he offer in response to that?

16 A. He didn't -- I don't recall what he said.

17 Q. At some point in time were you asked to  
18 sign a written declaration in connection with this  
19 case?

20 A. I don't remember.

21 Q. You don't remember being asked to sign a  
22 written declaration?

23 A. Well, I remember -- if you're referring  
24 to, like, my statement that -- to counsel that I  
25 had to -- that they wrote and then I signed, then

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1 yes.

2 Q. So that's what I'm talking about.

3 A. Oh, yes.

4 Q. There's a document that's entitled  
5 "Declaration" which you signed under the penalty  
6 of perjury dated December 19 of 2019. Do you  
7 recall signing that?

8 A. Yes.

9 Q. And what was the circumstances that gave  
10 rise to signing that document?

11 A. They reached out to me and needed me to  
12 basically give them my official statement. And  
13 they wrote it up and sent it to me. And I looked  
14 it over, made sure it was correct, and signed it.

15 Q. And the document that was sent to you, did  
16 you make any substantive changes or corrections to  
17 what was sent to you?

18 A. I don't remember.

19 Q. How was the document sent to you? Was it  
20 sent to you by email or by fax or some other  
21 means?

22 A. By email.

23 Q. Do you recall if it was a Word document or  
24 a PDF document or something else?

25 A. I don't.

13 (Pages 46 to 49)